

Application No.: 10/527,390
Filing Date: October 17, 2005

REMARKS

Amendments to the Claims

Claim 4 has been amended to further clarify certain aspects of one embodiment of the invention. No new matter has been added to the claims. Claims 4-14, 16, 17, 20-29 and 31-33 are currently pending. Reconsideration and allowance of Claims 4-14, 16, 17, 20-29 and 31-33 in light of the present remarks is respectfully requested.

Discussion of Rejection of Claim 4 under 35 USC § 102

The Examiner rejected Claim 4 under 35 USC § 102 as being anticipated by U.S. Patent No. 6,277,139 to Levinson et al. (hereinafter “Levinson”). Claim 4 is the only independent claim in the present application. All other claims depend from Claim 4.

Claim 4 has been further amended to recite an extraction device (*See Figures 14-19 of the present application*) comprising “*...a channel element and at least one compressible and expandable collecting basket having a distal end comprising an opening, said opening facing away from said channel element when said basket is deployed, and a proximal end, wherein at least one wire-like flexible adjustment element extends along an inner or outer surface of said basket from a proximal region of said basket to a distal region of said basket, wherein said at least one wire-like flexible adjustment element does not substantially protrude beyond the distal region of said basket so that no obstructions of said opening are present...*

Orienting the basket such that the opening of the basket faces away from the channel element and toward the foreign object, is significant because it allows the operator to extract the foreign object from the proximal side of the foreign object (*See, for example, FIG. 16 and paragraph 84 of the present application*). Referring to FIG. 16 of the present application, the collecting basket can be opened so wide that it bears completely on the inside wall of the vessel and can even expand the vessel to a greater diameter than normal such that the foreign object slides smoothly into the opening of the collecting basket. Once the object is inside of the basket, the operator can close the basket around the object and extract the object. Extracting the object from the proximal side of the object is desirable when the object is large and there is not enough room to get the channel element and/or basket around the object for a distal extraction.

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Additionally, extracting the object from the proximal side of the object is desirable when there is a concern that the object can become dislodged or broken up during the process of trying to get the channel element and/or basket around the object for a distal extraction.

In contrast, the collecting basket disclosed in Levinson opens toward the channel element, not away from it. This requires the operator to try and maneuver the channel element and/or basket around the object before extraction can take place, potentially leading to the problems discussed above.

Additionally, Claim 4 has been amended to recite a basket with at least one wire-like flexible adjustment element which does not substantially protrude beyond the distal region of the basket or obstruct the opening of the basket. This feature is desirable because the adjustment element(s) disclosed in the present application do not protrude in front of the basket opening and thus will not hinder an object from entering the basket.

In contrast, the devices described in Levinson have adjustment element(s) which obstruct the opening of the basket (See Levinson FIG. 1 and FIG. 22 (label 226)). The adjustment element(s) configuration disclosed in Levinson is undesirable because the adjustment element(s) will hinder objects, especially larger objects, from entering the basket.

For at least these reasons, Applicant respectfully submits that independent Claim 4 is not anticipated by Levinson and is in condition for allowance. Therefore, withdrawal of the rejection is respectfully requested.

Furthermore, for reasons similar to those described above with reference to Claim 4, Applicant respectfully submits that Claims 5-14, 16, 17, 20-29 and 31-33, being dependent on Claim 4, are also in condition for allowance.

Discussion of Rejection of Claims under 35 USC § 103

The Examiner rejected Claims 4-14, 16, 17, 20-29 and 32 as being obvious over Levinson in view of Kusleika et al. (hereinafter "Kusleika," US 2002/0169474 A1). The Examiner rejected Claim 31 as being obvious over Levinson in view of Kusleika and in further view of Bates et al. (hereinafter "Bates," US 6,280,451). The Examiner rejected Claim 33 as being

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obvious over Levinson in view of Kusleika and in further view of Broome et al. (hereinafter "Broome," US 2002/0082639 A1).

Claim 4 is the only independent claim for the claim group recited above and all other claims depend from Claim 4. Applicant respectfully submits that neither Levinson, Kusleika, Bates, nor Broome, alone or in combination, recite each and every element of Claim 4 as amended. Therefore, for reasons similar to those described above with reference to amended Claim 4, Applicant respectfully submits that Claims 4-14, 16, 17, 20-29 and 31-33 are in condition for allowance, and Applicant respectfully requests withdrawal of this rejection.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

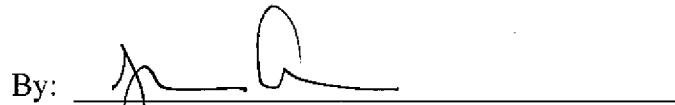
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 6 | 5 | 09

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